

RECEIVED

UNITED STATES DISTRICT COURT

JUL 19 2021

US DISTRICT COURT
MID DIST TENN

for the

middle District of Tennessee

____ Division

Daniel James Silva

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Swift et al

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

3:21-cv-00505

(to be filled in by the Clerk's Office)

Jury Trial: (check one)

☒ Yes☐ No**COMPLAINT FOR VIOLATION OF CIVIL RIGHTS**

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Address

County

Telephone Number

E-Mail Address

Daniel James Silva
 601 Lester Lane
 Winston Salem NC 27103
 City State Zip Code
 Forsyth

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (if known)

Address

County

Telephone Number

E-Mail Address (if known)

Andrew mulh
 Police officer
 6101 Harding Place
 Nashville TN 37211
 City State Zip Code

☒ Individual capacity ☐ Official capacity

Defendant No. 2

Name

Job or Title (if known)

Address

County

Telephone Number

E-Mail Address (if known)

Jordan Dianne Turner
 408 2nd Ave N Ste 2120
 Nashville TN 37201
 City State Zip Code

☒ Individual capacity ☐ Official capacity

Defendant No. 3

Name

Job or Title (if known)

Address

Jarrell Joe Binkley
1 Publ. 2 Square, Suite 800
Nashville TN 37201
City State Zip Code

County

Telephone Number

E-Mail Address (if known)

☒ Individual capacity ☐ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Address

Taylor Alison Swift
2201 Harding Place
Nashville TN 37201
City State Zip Code

County

Telephone Number

E-Mail Address (if known)

☒ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

See attachment / Complaint

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

See attachments / Complaint

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Attachment / Complaint

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

See Attachment / Complaint

- B. What date and approximate time did the events giving rise to your claim(s) occur?

See Attachment / Complaint

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attachment / Complaint

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

See Complaint

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See Complaint

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

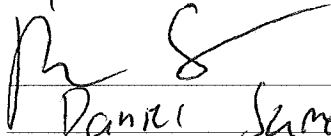
I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

7/16/2021

Signature of Plaintiff

Printed Name of Plaintiff


Daniel James Silva

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

1 United States District Court Middle District of Tennessee

2 801 Broadway, Room 800, Nashville, TN 37203

3
4 Daniel James Silva

5 Plaintiff

6 Officer Andrew Mullen personal capacity

7 Judge Dianne Turner personal capacity

8 Judge Joe Binkley personal capacity

9 Taylor Alison swift personal capacity

10 _____
11 Defendants

12 Case number: 3:21-cv-00505 Silva v. Swift et al

13
14 Jury trial demanded.

15
16 1st amended Civil rights Complaint.

1

2

3

Statement of claim

4 on 5/19/2020 I went to address 2201 Harding place to serve defendant Taylor

5 Alison swift and also to attempt an arrest on her for the following crimes,

6 Multiple counts of Obstruction of justice 1505

7 Multiple RICO violations

8 Multiple counts of 18 U.S. Code § 241. Conspiracy against rights and 42 U.S.

9 Code § 1985. Conspiracy to interfere with civil rights

10 And multiple other crimes along with her lawyer Doug Baldrige he orchestrated

11 her crimes ill explain below.

12

13 I had gone to address 2201 Harding place and when I got there I was met by 2

14 armed guards but I did not attempt to beach the gate, I handed over a copy of the

15 my civil rights lawsuit for case 4:19-cv-00286-RH-MJF SILVA v. SWIFT et al. a

16 certified complaint and a signed affidavit explaining swifts crimes in detail, on the

17 arresting affidavit by officer Andrew Mullen which he stated (the defendant was

18 trying to serve federal rico violations paperwork to a resident) admitting he knew

1 swift lives at the house and address, he later stated (the defendant was there to
2 serve papers and to make a citizens arrest. **Officer MULLEN has blatantly**
3 **admitted that he not only knew why I was there but after understating why I**
4 **was there, feloniously obstructing my legitimate citizen's arrest also**
5 **protecting SWIFT in the process.**

6
7 **I have 4 counts to this Civil rights complaint,**

8
9 **COUNT 1**

10 **1st by officer Andrew Mullen placing me under arrest for 3rd degree trespass.**
11 **Mullen and the other officers that where there committed the following civil**
12 **rights violations and broken the following criminal statues federal and state**
13 **committed by all named parities in the lawsuit, I was arrested on Andrea**
14 **Finley/Taylor swifts property, A private party may be deemed a state actor if**
15 **it, he or she conspires with a public official depriving another of their**
16 **constitutional rights. In other words, a private party may be held liable as a**
17 **state actor if they “acted jointly” with the state. Taylor Swift is an accessory to**
18 **Andrew Mullens fraudulent arrest which violated my 4th amendment rights.**

1
2 **By Mullen arresting me after reading the certified/verified civil rights**
3 **complaint and affidavit he committed**

4 **1st obstruction of justice 1503 (2 counts) (both 1989 fraudulent trademarks)**
5 **being that lawsuit 4:19-cv-00286-RH-MJF SILVA v. SWIFT et al was**
6 **pending at the time,**

7
8 **2nd 2010 Tennessee Code**

9 **Title 39 - Criminal Offenses**

10 **Chapter 11 - General Provisions**

11 **Part 4 - Criminal Responsibility**

12 **39-11-411 - Accessory after the fact.**

13
14 **(a) A person is an accessory after the fact who, after the commission of a**
15 **felony, with knowledge or reasonable ground to believe that the offender has**
16 **committed the felony, and with the intent to hinder the arrest, trial, conviction**
17 **or punishment of the offender:**

1
2 **(1) Harbors or conceals the offender.**

3 **(2) Provides or aids in providing the offender with any means of avoiding**
4 **arrest, trial, conviction or punishment; or**

5
6 (3) Warns the offender of impending apprehension or discovery.

7 (b) This section shall have no application to an attorney providing legal services as
8 required or authorized by law.

9
10 (c) Accessory after the fact is a Class E felony.

11 [Acts 1989, ch. 591, § 1; 1994, ch. 978, § 4; 1995, ch. 281, § 1.]

12 Also hes an 39-11-411. Accessory TO A FALSE POLICE REPORT.

13
14 **2010 Tennessee Code**

15 Title 39 - Criminal Offenses

16 Chapter 16 - Offenses Against Administration of Government

17 Part 5 - Interference with Government Operations

1 **39-16-502 - False reports.**

2 (a) It is unlawful for any person to:

3 (1) Initiate a report or statement to a law enforcement officer concerning an
4 offense or incident within the officer's concern knowing that:

5 (A) The offense or incident reported did not occur;

6 (B) The person has no information relating to the offense or incident reported; or

7 (C) The information relating to the offense reported is false; or

8 **(2) Make a report or statement in response to a legitimate inquiry by a law**
9 **enforcement officer concerning a material fact about an offense or incident**
10 **within the officer's concern, knowing that the report or statement is false and**
11 **with the intent to obstruct or hinder the officer from:**

12

13 (A) Preventing the offense or incident from occurring or continuing to
14 occur; or

15 **(B) Apprehending or locating another person suspected of committing**
16 **an offense;**

17 (2) A violation of subdivision (a)(3) is a Class C felony. [Acts 1989, ch. 591, § 1;
18 1990, ch. 1030, § 28; 1998, ch. 690, § 1; 2000, ch. 976, § 1; 2002, ch. 849, § 6.]

1
2 **All other named defendants not only fall under**

3 2010 Tennessee Code

4 Title 39 - Criminal Offenses

5 Chapter 16 - Offenses Against Administration of Government

6 Part 5 - Interference with Government Operations

7 **39-16-502 - False reports. But also 39-11-411. Accessory after the fact, for**

8 **swifts rico violations and the civil rights violations perpetrated by the**

9 **arresting officer (Mullen) and his back up.**

10
11 **Mullens arrest affidavit is fraudulent because the police report was fraudulent**

12 **the report was made to obstruct my arrest. Being that Mullins affidavit is**

13 **fraudulent he violated my 4th amendment right, the 4th amendment is the**

14 **right of the people to be secure in their persons, houses, papers, and effects,**

15 **against unreasonable searches and seizures, shall not be violated, and no**

16 **warrants shall issue, but upon probable cause, supported by oath or**

17 **affirmation, and particularly describing the place to be searched, and the**

1 persons or things to be seized. Mullens and 4 other officers illegal searched my
2 person and car on 2201 Harding places property.

3 **The swifts also fall under criminal Malicious Prosecution.**

4 The person being sued initiated a legal proceeding against the criminal defendant
5 (now a plaintiff) – for example, they filed a false police report; The proceeding
6 ends in a acquittal or dismissal; The person who initiated the legal proceeding had
7 an improper person (meaning it was not a mistake but rather, was done for some
8 kind of malicious purpose, for example) The criminal defendant-turned-plaintiff
9 was damaged in some manner.

10
11 **Count 2**

12 **after I went to Harding place and got illegally searched and arrested tying to**
13 **enforce federal broken statues which goes against my 4th amendment right,**
14 the second count was caused by the Nashville criminal court **Judge Dianne**
15 **Turner** , on 5/9/2020 I was arrested at Harding place and was booked into jail
16 about 2 hours later I had a pretrial intervention, so I was released on my own
17 accord.

18 **Its been over 12 months** since my arrest and I haven't received a court
19 **appointed lawyer my 6th amendment right also the court has blatantly**

1 **ignored the rules of criminal procedure, I also assert this lawsuit to be class**
2 **based being that most of the defendant are rich I am poor thus the follow case**
3 **law applies,**

4
5 **Also my due process was violated by judge turner and she broken the**
6 **following rules of criminal procedure.**

7 **Rule 5:**

8 **Initial Appearance Before Magistrate.**

9
10 (a) In General.(1) Appearance Upon an Arrest. Any person arrested—except upon a
11 capias pursuant to an indictment or presentment—shall be taken without
12 unnecessary delay before the nearest appropriate magistrate of:

13
14 (A) the county from which the arrest warrant issued; or

15 (B) the county in which the alleged offense occurred if the arrest was made without
16 a warrant, unless a citation is issued pursuant to Rule 3.5.

1
2
3 **Rule 5.1 Rule 5.1: Preliminary Hearing.**
4

5 (a) Procedures. The following rules apply to a preliminary hearing:
6

7 (1) Evidence. The finding that an offense has been committed and that there is
8 probable cause to believe that the defendant committed it shall be based on
9 evidence which may not be inadmissible hearsay except documentary proof of
10 ownership and written reports of expert witnesses. Rules excluding evidence
11 acquired by unlawful means are applicable.
12

13 (2) Defendant's Right to Present Evidence and Cross-Examine. The defendant may
14 cross-examine witnesses against him or her and may introduce evidence.
15

16 (3) Content and Access to Record of Proceeding. The evidence of the witnesses
17 does not have to be reduced to writing by the magistrate, or under the magistrate's
18 direction, and signed by the respective witnesses; but the proceedings shall be

1 preserved by electronic recording or its equivalent. If the defendant is subsequently
2 indicted, such recording shall be made available to the defendant or defense
3 counsel so they may listen to the recording in order to be apprised of the evidence
4 introduced in the preliminary hearing. Where the recording is no longer available
5 or is substantially inaudible, the trial court shall order a new preliminary hearing
6 upon motion of the defendant filed not more than 60 days following arraignment.
7 The indictment shall not be dismissed while the new preliminary hearing is
8 pending. If the magistrate conducting the new preliminary hearing determines that
9 probable cause does not exist, the magistrate shall certify such finding to the trial
10 court and the trial court shall then dismiss the indictment. The discharge of the
11 defendant by the dismissal of the indictment in such circumstances does not
12 preclude the state from instituting a subsequent prosecution for the same offense.

13
14 (b) When Probable Cause Found. When the magistrate at a preliminary hearing
15 determines from the evidence that an offense has been committed and there is
16 probable cause to believe that the defendant committed it, the magistrate shall bind
17 the defendant over to the grand jury and either release the defendant pursuant to
18 applicable law or commit the defendant to jail by a written order.

1 **I was never granted a first appearance or had a Preliminary Hearing.**

2
3 Also

4 **Rule 10: Arraignment.**

5
6 (a) General. Before any person is tried for the commission of an offense, the
7 person shall be called into open court and arraigned, except as provided in Rule 43.

8 (b) Procedure. The arraignment shall consist of the following:

9 (1) ensuring that the defendant has a copy of the indictment, presentment, or
10 information before called upon to plead;

11 (2) reading the indictment, presentment, or information to the defendant or stating
12 to the defendant the substance of the charge; and then

13 (3) asking the defendant to plead to the indictment, presentment, or information.

14 (c) Record. The arraignment shall be entered on the record.

15 (d) Jointly Charged Defendants. Defendants who are jointly charged may be
16 arraigned separately or together in the court's discretion.

1 This rule creates a formal arraignment procedure in Tennessee. The rule applies
2 only to Circuit or Criminal Courts or other criminal courts of record.

3 The accused must be given a copy of the indictment or presentment before being
4 called upon to plead. A uniform procedure is provided applicable to all cases.

5
6 **I was never given an Arraignment.**

7 **Rule 11: Pleas.**

8 (a) Plea Alternatives.

9 (1) In General. A defendant may plead not guilty, guilty, or nolo contendere. The
10 court shall enter a plea of not guilty if a defendant refuses to plead or if a defendant
11 corporation, limited liability company, or limited liability partnership fails to
12 appear.

13
14 (2) Nolo Contendere. A defendant may plead nolo contendere only with the
15 consent of the court. Before accepting a plea of nolo contendere, the court shall
16 consider the views of the parties and the interest of the public in the effective
17 administration of justice.

(3) Conditional Plea. A defendant may enter a conditional plea of guilty or nolo contendere in accordance with Rule 37(b).

I was never given an opportunity to make a plea.

Judge Dianne Turner allowed 4 rules of Tennessee rules of criminal procedure to be broken and in turn she can fall under conspiracy against civil rights

18 U.S. Code § 242. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation

of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

Taylor swift bought 2201 Harding place for her mother, I have multiple articles stating such, Jay schaudies is a real person but he's the straw purchaser for 2201 Harding place, so crazy fans cant find out where her or her family lives, all the named defendants can fall under

Accessory to Multiple counts of Obstruction of justice 1505 (federal law)

Accessory to Multiple rico violations (federal law)

Accessory to Multiple counts of 18 U.S. Code § 241. Conspiracy against rights and (federal law)

39-11-411. Accessory after the fact. (state law)

39-16-502 - False reports. (state law)

1 Judge Norman Harris signed mullens arrest affidavit, so he falls under the
2 same crimes as Judge Dianne Turner.

3
4 .
5 **Count 3**

6 Judge joe Binkley violated my 5th and 14th amendment rights in civil case
7 21c444 by giving me less than 48 hours to make a hearing in Tennessee and
8 also gave a no contact order committing 3 counts of obstruction 1505 (had 3
9 pending cases in Florida at the time at the federal level).

10 4:21-cv-00049-WS-MAF SILVA v. SWIFT et al

11 4:21-cv-00095-MW-EMT SILVA v. HINKLE et al

12 4:21-cv-00134-AW-MAF SILVA v. ROSE et al

13 **Count 4**

14 Taylor Alison swift is an accessory to making a false police report that
15 prevented me from placing her under arrest for the many RICO crimes and
16 violations she has committed over many lawsuits over many years. The false
17 police report lead to my illegal arrest and false imprisonment by officer
18 mullen.

1
2 In **Beauford v. Helmsley, ___ S. Ct. ___ (1989)**, the Supreme Court held that
3 it is not necessary to prove that multiple schemes, episodes or transactions
4 occurred in order to establish a "pattern of racketeering activity," as long as
5 the racketeering acts were "neither isolated nor sporadic."

6 Mail and wire fraud were a part of the scheme, as defendants used the mails
7 and telephone to carry out their schemes. The mails were used in filing court
8 papers, used to notify plaintiff of these filings, More than two, actually dozens
9 of instances, of such mail and wire fraud occurred, in a pattern of
10 racketeering activity.

11 She's an accessory to all Doug Baldrige Rico crimes, the house she lives at a
12 few days to weeks a month was gifted by her to her mother, the 4th
13 amendment violation was on her property. She has violated my 4th
14 amendment rights because it was her false police report that caused officer
15 muller to violate my 4th amendment rights, by officer mullen placing me
16 under arrest after knowing of swifts RICO violations he obstructed my arrest,
17 losing qualified immunity in the process.

1 Judge WAVERLY D. CRENSHAW don't even try to say I cant add swift as a
2 defendant because of RICO judge ROBERT L HINKLE, in 4:19-cv-00286-
3 RH-MJF SILVA v. SWIFT et al not only is he an accessory to swifts RICO
4 violations his order (dkt 118) is both mail and wire fraud being that I was sent
5 a copy though the mail and the order was uploaded though pacer(wire fraud).
6 His order is void and its so void from lack of due process (hearing) it doesn't
7 even need to be set aside A judgment of a court without hearing the party or
8 giving him an opportunity to be heard is not a judicial determination of his rights.
9 Sabariego v Maverick, 124 US 261, 31 L Ed 430, 8 S Ct 461, and is not entitled to
10 respect in any other tribunal.

11 A void judgment is not entitled to the respect accorded to a valid
12 adjudication, but may be entirely disregarded, or declared inoperative by any
13 tribunal in which effect is sought to be given to it. It is attended by none of the
14 consequences Void judgments are those rendered by a court which lacked
15 jurisdiction, either of the subject matter or the parties, Wahl v. Round Valley Bank
16 38 Ariz. 411, 300 P. 955 (1931) ;Tube City Mining & Milling Co. v. Otterson, 16
17 Ariz. 305, 146 P. 203 (1914); and Milliken v. Meyer, 311 U.S. 457, 61 S.Ct. 339,
18 85 L.Ed. 2d 278 (1940).

1 A void judgment which includes judgment entered by a court which lacks
2 jurisdiction over the parties or the subject matter, or lacks inherent power to
3 enter the particular judgment, or an order procured by fraud, can be
4 attacked at any time, in any court, either directly or collaterally, provided that
5 the party is properly before the court, Long v. Shorebank Development Corp., 182
6 F.3d 548 (C.A. 7 Ill. 1999).of a valid adjudication. It has no legal or binding force
7 or efficacy for any purpose or at any place. ... It is not entitled to enforcement ...
8 All proceedings founded on the void judgment are themselves regarded as invalid.
9 30A Am Jur Judgments " 44, 45.

10
11 In a prior case a rico judge used Hinkle's void order to dismiss my case with
12 prejudice I think, although judge MICHAEL J FRANK in case 4:19-cv-00286-
13 RH-MJF SILVA v. SWIFT et al entirely disregarded an order of dismissal with
14 prejudice, swift had 60 days to reply to his order wothj 12 days left judge frank
15 committed mail and wire fraud to toss my complaint

16
17 **Why this court the United States District Court Middle District Of Tennessee**
18 **has jurisdiction and over this case,**

28 U.S. Code § 1391. Venue generally (a) Applicability of Section. —Except as otherwise provided by law—

(1) this section shall govern the venue of all civil actions brought in district courts of the United States; and

(2) the proper venue for a civil action shall be determined without regard to whether the action is local or transitory in nature.

(b) Venue in General.—A civil action may be brought in—

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;

All defendants is a Nashville or Tennessee resident, I was arrested in the jurisdiction of this court.

Memorandum of law

Sec. 1983. - Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the

1 Constitution and laws, shall be liable to the party injured in an action at law, suit in
2 equity, or other proper proceeding for redress, except that in any action brought
3 against a judicial officer for an act or omission taken in such officer's judicial
4 capacity, injunctive relief shall not be granted unless a declaratory decree was
5 violated or declaratory relief was unavailable. For the purposes of this section, any
6 Act of Congress applicable exclusively to the District of Columbia shall be
7 considered to be a statute of the District of Columbia Title 42, U.S.C., Section
8 14141.

9
10 Plaintiff alleges a "class based", invidiously discriminatory animus is
11 behind the conspirators' action as the Court records reflect. That the
12 actions were clearly a product of bias and prejudice of the Court. See
13 Griffen v. Breckridge, 403 U.S. 88, 102 (1971).

14
15 **The U.S. Supreme Court acknowledged in Bray v. Alexandria Women's**
16 **Health**
17 **Clinic 113 S.Ct.753 (1993) that the standard announced in Griffen was not**
18 **restricted to "race" discrimination. It is therefore reasonable to assume**

1 that 1985 (3) may be used for "class-based" claims other than race which is
2 alleged in this case.

3 The defendant lawyers acting in conspiracy with state actors under color of
4 law have become state actors in this case. The U.S. Supreme Court has ruled
5 that "private parties", lawyers in this case, may be held to the same
6 standard of "state actors" where the final and decisive act was carried out
7 in conspiracy with a state actor or state official. See Dennis v. Sparks,
8 449 U.S. 24, 101 S.Ct., 183 also See Adickes v. S.H. Kress & Co., 398 U.S.
9 144, 90 S.Ct. 1598.

10
11 Plaintiff's Complaint is based in part on discrimination and political
12 affiliations by lawyers and lawyer-judges, under 42 USCA 1983 & 1985. See
13 reversal case Acevedo-Diaz v Aponte (1993, CA1 Puerto Rico) 1 F3d 62,
14 summary op at (CA1 Puerto Rico) 21 M.L.W. 3212, 14 R.I.L.W. 389.

1 **Specific relief requested.**

2 Injunctive relief please stay Judge Dianne Turner and Judge Joe Binkley's
3 void orders for going against my due process rights. Pulliam v. Allen, 466
4 U.S. 522 (1984) Judicial immunity is not a bar to prospective injunctive relief
5 against a judicial officer, such as petitioner, acting in her judicial capacity. Pp.
6 466 U. S. 528-543.

7
8 **Declaratory judgement-**

9 did Judge Dianne Turner, Judge Eli J. Richardson, Judge Joe Binkley, Judge
10 William L. Campbell, Jr, Violate my 5th and 14th amendment rights of due
11 process in the cases I had with them.

12 **Case law Pulliam v. Allen**

1 **Monetary relief sought.**

2 **Taylor Alison Swift -100,000 usd general damages for being an accessory to a**
3 **false police report that stole my liberty, caused a police officer to commit false**
4 **imprisonment and violated my 4th amendment right.**

5 **Punitive damages 19.89 million**

6
7
8 Because punitive damages are intended to punish the wrongdoer, a wealthy
9 wrongdoer should face a higher punitive damages award than a less wealthy party.
10 Neal v Farmers Ins. Exch. (1978)21 C3d 910, 928, 148 CR 389 ("the function of
11 deterrence . . . will not be served if the wealth of the defendant allows him or her to
12 absorb the award with little or no discomfort"). Little v Stuyvesant Life Ins. Co.
13 (1977)67 CA3d 451, 469, 136 CR 653; see also Michelson v Hamada (1994)29
14 CA4th 1566, 1595, 36 CR2d 343. [a]lthough appellate courts have sometimes used
15 the terms "wealth," "financial condition" and "net worth" interchangeably
16 [citations], clearly these terms are not synonymous. And, while "net worth" is
17 probably the financial measurement most often used in setting the amount of
18 punitive damages, no court has held that it is the only permissible measurement.

1 See also Cheung v Daley (1995)35 CA4th 1673, 1677, 42 CR2d 164; Kizer v
2 County of San Mateo (1991) 53 C3d 139, 147, 279 CR 318. In Clark v McClurg
3 (1932) 215 C 279, 9 P2d 505, however, an award of \$5000 in punitive damages
4 was upheld when the jury left blank the space for actual damages.

5 In Cheung, defendant was accused of fraudulently transferring real property to
6 evade satisfaction of a nuisance judgment against him. The jury found that plaintiff
7 was entitled to compensatory damages in the amount of \$0. The jury further found
8 that by making the fraudulent transfers, defendant had acted with fraud,
9 oppression, or malice, and awarded punitive damages. On appeal, the court
10 concluded that "the rule of Mother Cobb's Chicken -- that an award of exemplary
11 damages must be accompanied by an award of compensatory damages--is still
12 sound. That rule cannot be deemed satisfied where the jury has made an express
13 determination not to award compensatory damages." 35 CA4th at 1677.

14 punitive damages should be reserved for cases where defendant acted with the
15 degree of malice akin to the mens rea required for most crimes, Jeffries v.
16 Harleston, 21 F.3d 1238, 1249, cert. granted, vacated on other grounds, 513 U.S.
17 996 (1994).**In federal cases, the factfinder may award punitive damages if the**
18 **defendant's conduct "was malicious, oppressive or in reckless disregard of the**
19 **plaintiff's rights.**

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There is no maximum dollar amount of punitive damages that a defendant can be ordered to pay. In response to judges and juries which award high punitive damages verdicts, the Supreme Court carved out a notable exception to this rule of proportionality in the case of TXO Production Corp. v. Alliance Resources Corp., where it affirmed an award of \$10 million in punitive damages, despite the compensatory damages being only \$19,000, a punitive-to-compensatory ratio of more than 526.

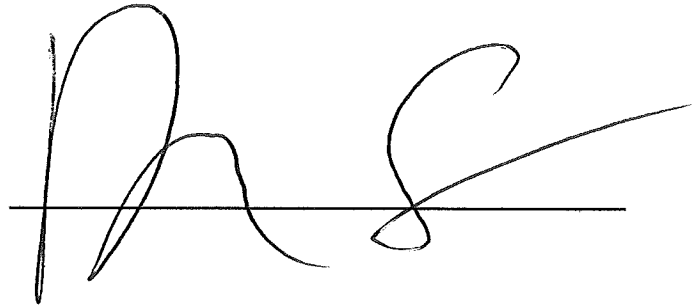
2014 Tennessee Code

Title 29 - Remedies and Special Proceedings

Chapter 39 - Compensation for Economic and Noneconomic Damages

§ 29-39-104 - Punitive damages.

1
2 **Daniel James silva pro se 7/13/2021**

3
4 A handwritten signature in black ink, appearing to read 'DJS', is written over a horizontal line. The signature is fluid and cursive, with the first letter 'D' being large and prominent.

5
6 **Celticmoon1989@yahoo.com**

7
8 **501 Lester Lane Winston Salem nc 27103**

9
10 **this court has approved my forma pauperis in case 3:20-cv-00938 Silva v.**

11 **Mullen et al William L. Campbell Jr, so this court has already declared me a**

12 **pauper and that was when I had a job I don't have one anymore.**

1 **I Daniel James file hereby file a civil rights complaint the following**
2 **defendants against here are their addresses,**
3 **my address 501 Lester lane , Winston Salem NC 27203**
4 **Andrea Finlay Swift – 2201 Harding Pl, Nashville, TN 37215**
5 **Judge Dianne Turner- 408 2nd Ave N Ste 2120, Nashville, TN 37201**
6 **Judge Joe Binkley,1 Public Square, Suite 509 Nashville, TN 37201 (address**
7 **listed)**

8

1 **2nd judge Hinkle order dkt (118) in case 4:19-cv-00286-RH-MJF SILVA v.**

2 **SWIFT et al is void for 2 main reasons** 1st he didn't grant me due process my 5th

3 and 14th amendment of a fair hearing. A judgment may not be rendered in

4 violation of constitutional protections. The validity of a judgment may be affected

5 by a failure to give the constitutionally required due process notice and an

6 opportunity to be heard. Earle v. McVeigh, 91 US 503, 23 L Ed 398. See also

7 Restatements, Judgments ' 4(b). Prather vLoyd, 86 Idaho 45, 382 P2d 910. Also

8 case law Every person is entitled to an opportunity to be heard in a court of law

9 upon every question involving his rights or interests, before he is affected by any

10 judicial decision on the question. Earle v McVeigh, 91 US 503, 23 L Ed 398.

11 And 2nd he is a RICO judge who has committed rico violations protecting taylor

12 swifts **"We have long recognized that a state cannot create a transitory cause**

13 **of action and at the same time destroy the fight to sue on that transitory cause**

14 **of action in any court having jurisdiction"**, Tennessee Coal, Iron & R, Co. v.

15 George, 233 U.S. 354

16 When a judge acts intentionally and knowingly to deprive a person of his

17 constitutional rights he exercises no discretion or individual judgment; he acts no

18 longer as a judge, but as a " minister" of his own prejudices. [386 U.S. 547, 568].

1 A judge is liable for injury caused by a ministerial act; to have immunity the judge
2 must be performing a judicial function. See, e. g., Ex parte Virginia, 100 U.S. 339 ;
3 2 Harper & James, The Law of Torts 1642-1643 (1956).

4
5 **The presence of malice and the intention to deprive a person of his civil rights**
6 **is wholly incompatible with the judicial function.**

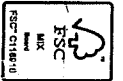
7
8 **Also even if he wasn't a Rico judge criminal with he is, his order is**
9 **unconstitutional,**

10 **Elmore v. McCammon (1986) 640 F. Supp. 905**

11 **"... the right to file a lawsuit pro se is one of the most important rights under**
12 **the constitution and laws."**

13
14 **Not being able to add someone's name to a lawsuit unless signed by an**
15 **attorney just sounds retarded, my many claims haven't been satisfied by July**
16 **or judge so his order is completely void and must be totally disregarded as**
17 **blatantly illegal and unconstitutional.**

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From Daniel james silva

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Nc 27103

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MID DIST TENN

United States District Court for the Middle District of Tennessee

801 Broadway Rm 800, Nashville, TN 37203

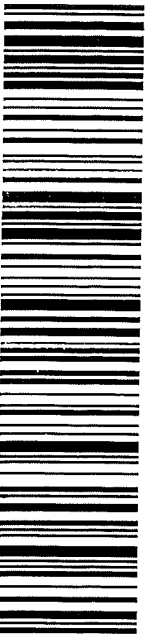
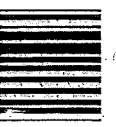
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